

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER JOSHUA LABRECK,

Case No. 11-10155

Plaintiff,

David M. Lawson

v.

United States District Judge

UNITED STATES DEPARTMENT OF
TREASURY INTERNAL REVENUE SERVICE,
BONNIE MULLINS, STEPHEN DANISH,
THOMAS W. MITCHELL, and OFFICE OF
COMPTROLLER OF CURRENCY,

Michael Hluchaniuk
United States Magistrate Judge

Defendants.

REPORT AND RECOMMENDATION
MOTIONS TO DISMISS (Dkt. 40, 42, 65)

Plaintiff filed his complaint on January 12, 2011, alleging violations of the Freedom of Information Act (FOIA). (Dkt. 1). The Office of the Comptroller of Currency and the individual defendants have filed motions to dismiss plaintiff's claims against them. (Dkt. 40, 42). Plaintiff recently filed a motion to dismiss these parties from the lawsuit, admitting that his claims against the individual defendants are "tenuous" and that he did not exhaust his administrative remedies as to his claim against the Comptroller of Currency. (Dkt. 65).

Based on the foregoing, the undersigned **RECOMMENDS** that plaintiff's motion to dismiss be **GRANTED** and that defendants Bonnie Mullins, Stephen Danish, Thomas W. Mitchell, and the Office of the Comptroller of Currency be

DISMISSED from this case. The undersigned further **RECOMMENDS** that defendants' motions to dismiss (Dkt. 40, 42) be **DENIED** as moot.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service, as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1981). Filing objections that raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health and Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Any objections must be labeled as "Objection No. 1," "Objection No. 2," etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed.R.Civ.P. 72(b)(2), Local Rule 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as "Response to Objection No. 1," "Response to Objection

No. 2,” etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

Date: January 5, 2012

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on January 5, 2012 I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to the following: William G. Pierson, Carmen M. Banerjee, and Andrew J. Lievense, and I certify that I have either hand delivered/ mailed by United States Postal Service the paper to the following non-ECF participant(s): Peter Joshua Labreck, ID#23139-039, FCI MILAN, P.O. Box 1000, Milan, MI 48160.

s/Tammy Hallwood
Case Manager
(810) 341-7887
tammy_hallwood@mied.uscourts.gov